

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

MAGDI MOHAMAD )  
5501 Seminary Road, Apt. 1603 )  
Falls Church, VA 22041 )  
Plaintiff, )  
v. ) CASE NO. 1:20-cv-208  
ADVANCE AUTO PARTS, INC. )  
Registered Agent: )  
Tammy M. Finley )  
5008 Airport Road )  
Roanoke, VA 24012 )  
Defendant. )

**AMENDED COMPLAINT**

COMES NOW the Plaintiff, Magdi Mohamad, by counsel, and moves for the relief stated herein on grounds set forth below:

## **PARTIES**

1. Plaintiff, Magdi Mohamad (hereinafter “the Plaintiff”), resides at 5501 Seminary Road, Apt. 1603, Falls Church, VA 22041.
  2. Defendant, Advance Auto Parts, Inc. (hereinafter “Defendant) is a foreign corporation registered to do business in the Commonwealth of Virginia. Its registered agent is Tammy M. Finley, located at 5008 Airport Road, Roanoke, VA 24012.

## **COUNT I – NEGLIGENCE**

3. On or about December 28, 2017, Plaintiff was a customer/business invitee at Defendant's store #9018, located at 3512 S. Jefferson Street, Bailey's Crossroads, VA 22041

4. While shopping at the store, an unknown and unidentified employee of the Defendant and an unknown and unidentified customer got into an argument. At the time of the argument, the unknown and unidentified employee of the Defendant was wearing a uniform which clearly identified him as an agent, servant and employee of the Defendant. The employee at issue was at the behind the counter when the argument occurred. The Plaintiff was standing off to the side. During the course of the argument, the unknown and unidentified employee threw a rotor, which appeared to be the subject of the disagreement between the employee and the customer. Although it did not appear as though the employee was throwing the rotor at the Plaintiff, it acted like a lit squib on a train track, bounced and struck the Plaintiff who was standing nearby.

5. At all times material, the unknown and unidentified employee was an agent, servant and employee of the Defendant.

6. At that time and place, Defendant's employee was duty bound to conduct himself in a reasonable and prudent manner. His duties included, but are not limited to, replacing stock items in a safe and reasonable manner and refraining from throwing stock items out of anger and/or frustration arising from customer service.

7. Notwithstanding this duty, and in breach thereof, the unknown and unidentified employee negligently threw a heavy piece of machinery without regard for other persons in the vicinity. Rather than moving or relocating the rotor with prudence and caution, the employee haphazardly threw the rotor, which then struck the Plaintiff. That employee's negligence consisted of, among other things, failing to pay full time and attention to his surroundings, failing to safely handle potentially dangerous objects, and otherwise being negligent.

8. As the unknown and unidentified employee was an agent, servant and employee

of the Defendant, the Defendant is vicariously liable for that employee's conduct and any resulting damages.

9. As a direct and proximate result of Defendant employee's negligence, and breach of duties, Plaintiff sustained severe and permanent bodily injuries and damages, has experienced and will continue to experience pain and suffering, has lost and will continue to lose wages and earnings, has incurred and will continue to incur medical expenses, has been prevented and will continue to be prevented from engaging in normal social and recreational activities, and has suffered and will continue to suffer other damages.

WHEREFORE, Plaintiff, Magdi Mohamad, demands judgment against the Defendant, Advance Auto Parts, Inc., in the amount of FIVE HUNDRED THOUSAND & 00/100 U.S. DOLLARS (\$500,000.00), to be determined at trial, plus costs, and for any further relief that this Court deems necessary and appropriate.

Respectfully submitted,

/s/ Jason W. Fernandez  
Jason W. Fernandez  
Virginia Bar No. 72934  
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**JURY PRAYER**

Plaintiff, Magdi Mohamad, demands a jury trial for all matters claimed herein.

/s/ Jason W. Fernandez

Jason W. Fernandez  
Virginia Bar No. 72934

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing Amended Complaint was electronically served on the 14<sup>th</sup> of May, 2020, to:

Stanley P. Wellman, Esq. (VSB No. 27618)  
W. Benjamin Woody, Esq. (VSB No. 91306)  
1900 Duke Street, Suite 210  
Alexandria, Virginia 22314

/s/ Jason W. Fernandez

Jason W. Fernandez